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**Fax Cover Sheet****ESTÉE  
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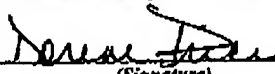
**DATE:** February 5, 2004 **TIME:** 6:11 PM  
**TO:** Gina C. Yu **PHONE:** (703) 308-3951  
U.S.P.T.O. GAU 1617 **FAX:** (703) 308-4242  
**FROM:** Dorene M. Price **PHONE:** (631) 531-1194  
Estée Lauder Companies **FAX:** (631) 531-1340  
**RE:** Non-fee amendment (S/N 09/897,871)

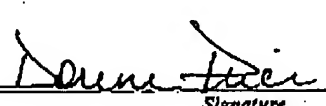
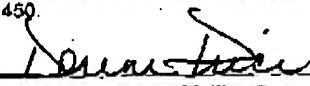
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Please see the attached documents.

1. Certificate of Transmission by Facsimile
2. Amendment Transmittal Letter
3. Amendment (4pp)

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<b>CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)</b>			Docket No. <b>00.30US</b>
Applicant(s): <b>Bowen-Leaver, et al.</b>			
Serial No. <b>09/897,871</b>	Filing Date <b>July 2, 2001</b>	Examiner <b>Yu, Gina C.</b>	Group Art Unit <b>1617</b>
Invention: <b>Ringing Nanogel Compositions</b>			
<p>I hereby certify that this <u>Cert. Trans. Amend (4 pp.)</u>  <small>(Identify type of correspondence)</small></p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>703-308-4242</u>)</p> <p>on <u>February 5, 2004</u>  <small>(Date)</small></p> <div style="text-align: right; margin-top: 100px;"> <p><b>DORENE M. PRICE</b>  <small>(Typed or Printed Name of Person Signing Certificate)</small></p> <p>  <small>(Signature)</small></p> </div>			
<p><b>Note: Each paper must have its own certificate of mailing.</b></p>			

<b>AMENDMENT TRANSMITTAL LETTER (Large Entity)</b>				Docket No. 00.30US	
Applicant(s): Bowen-Leaver, et al.					
Serial No. 09/897,871	Filing Date July 2, 2001	Examiner Yu, Gina C.	Group Art Unit 1617		
Invention: Ringing Nanogel Compositions					
<b><u>TO THE COMMISSIONER FOR PATENTS:</u></b>					
Transmitted herewith is an amendment in the above-identified application. The fee has been calculated and is transmitted as shown below.					
<b>CLAIMS AS AMENDED</b>					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	13 -	13 =	0 x	\$18.00	\$0.00
INDEP. CLAIMS	3 -	3 =	0 x	\$84.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
<b>TOTAL ADDITIONAL FEE FOR THIS AMENDMENT</b>					<b>\$0.00</b>
 <input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 05-1320 <input type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input checked="" type="checkbox"/> Any patent application processing fees under 37 CFR 1.17.					
 Dorene M. Price (Reg. No. 43,018) Estee Lauder Companies 125 Pinelawn Road Melville, NY 11747 (631) 531-1194			Dated: February 5, 2004		
cc:			<div style="font-size: small;">I certify that this document and fee is being deposited on February 5, 2004 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</div> <div style="text-align: center;"> Signature of Person Mailing Correspondence  <b>DORENE M. PRICE</b> Typed or Printed Name of Person Mailing Correspondence</div>		

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Attorney Docket No.: 00.30US

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: Bowen-Leaver, et al.

FEB 09 2004

Serial No.: 09/897,871

Group Art Unit: 1617

Filed: July 2, 2001

Examiner: Yu, Gina C.

For: Ringing Nanogel Compositions

RESPONSE PURSUANT TO 37 CFR 1.111 AND 1.115Remarks

The claims of the present invention are rejected under 35 U.S.C. §103 as being unpatentable over three sets of references. However, Applicants assert that the cited references fail to teach or suggest a self-structured nanogel like that of the present invention. Pursuant to 35 U.S.C. §103, a *prima facie* case of obviousness requires, *inter alia*, establishing that prior art reference(s) teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The ringing nanogels of the present invention contain an oil phase and a silicone oil component comprising at least one volatile oil that are self-structured and have a difference in complex viscosity of at least about 10,000 poise under oscillation stress in the range of about 0 to 5,000 (dyne/cm<sup>2</sup>). The nanogels of the present invention upon application to the skin feel pleasantly smooth at first and then transitions to a wet-like feel that is refreshing on the skin. However, because the composition is a gel, the consistency is not thin and drippy like water, and it is not tacky like other gels. This feeling and consistency is surprising especially since it is achieved with the oil phase and the silicone component that are self-structured. This is not taught or suggested by the cited references.

As presented in the present specification at page 3, paragraph [0008], the nanogel of the present invention is made by subjecting a water phase, an oil phase, and a silicone component to a series of high shear and high pressure treatments. As a result of these treatments, the oil phase and the silicone component self-structure to make the nanogel. The self-structuring of the oil phase and the silicone oil component thickens the composition and makes a nanogel. This is also discussed at page 6, paragraph [00017] and page 7, paragraph [00021]. The thickening of the nanogels of the present invention occurs in the absence of traditional viscosity increasing agents (i.e., thickeners) as explained at page 4, paragraphs [00012] and [00014] of the present specification. The self-structuring of the oil phase and the silicone oil component is not taught or suggested by the cited references each of which use thickeners in the form of surfactants, emulsifiers, or a crosslinking substance.